

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

United States of America :
 :
 v. : File No. 1:92-cr-00100-jgm-1
 :
 Thomas Hood :

OPINION AND ORDER
(Doc. 14)

In 1993, defendant Thomas Hood was convicted in this Court of transporting stolen goods in violation of 18 U.S.C. § 2314. The offense was a Class C felony subject to up to ten years' imprisonment. As a convicted felon, Hood has been barred from possessing a firearm under 18 U.S.C. § 922(g)(1). He now claims his civil rights have been restored and moves the Court for clarification of his right to possess a firearm.

In Beecham v. United States, 511 U.S. 368 (1994), the U.S. Supreme Court held that "a person convicted of a federal crime is not relieved of the firearms disability unless his civil rights have been restored under federal (as opposed to state) law." Small v. United States, 544 U.S. 385, 405 (2005) (parenthetical in original) (citing Beacham, 511 U.S. at 374). The procedure for relief from a firearms disability is set forth at 18 U.S.C. § 925(c) and requires

an application to the United States Attorney General. The task of reviewing such applications has been assigned to the Bureau of Alcohol, Tobacco and Firearms ("ATF"). See McHugh v. Rubin, 220 F.3d 53, 56 (2d Cir. 2000). Judicial review is available, but district courts have no jurisdiction to provide relief prior to the ATF's determination. United States v. Bean, 537 U.S. 71, 78 (2002).

Hood has not submitted any evidence he has either filed a federal application for relief from his disability, or that the ATF has acted on an application. Instead, he claims his civil rights were restored in New Hampshire and never taken away in Vermont. The fact remains, however, that Hood has not undertaken the federal process for a restoration of rights. Under Beecham, his civil rights will not have been restored as a matter of *federal* law until he has done so. His motion for clarification (Doc. 14) is therefore DENIED.

Dated at Brattleboro, in the District of Vermont, this 8th day of December, 2010.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
Senior United States District Judge